IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1883 OF 2007

Krishna Shaligram Niphadkar .....Petitioner.

V/s

Tukaram Ananda Matale
and Ors. ....Respondents.

Mr. G.S. Godbole with Mr. Nitin Mulye for Petitioner.

None for Respondents.

CORAM: V.M. KANADE, J.
DATE : 6th July, 2007

P.C.:

1. Heard the learned Counsel appearing on behalf of the Petitioner.

2. Petitioner takes exception to the order passed by the Joint Civil Judge, Senior Division, Nashik whereby the Trial Court directed the Plaintiff to add the intervener as party-defendant. It is submitted that the mutation entries regarding purchase of the suit property were cancelled by the S.D.O., Nashik Division, Nashik. It is submitted that original defendant Nos. 1 to 10 had not filed their Written Statement and the suit had proceeded ex parte. He submitted that, therefore, there was no reason why third party should have been directed to be added as party defendant.

3. I have perused the application filed by the intervener. He claims to have executed agreement of sale with the original owner and claims to have interest in the said property. In his application, he has alleged that a collusive suit has been filed by the Petitioner against defendant Nos. 1 to 10 to obtain ex parte decree in his favour. It is further stated that if such a decree is passed, it will affect his interest in the said property. In view of these averments in the said application, after taking into consideration the settled position in law, Trial Court has allowed the application. I do not see any reason to interfere with the order passed by the Trial Court. It is evident that merely because the Trial Court has permitted the intervener to be added as party defendant, it has not accepted the plea raised by the said intervener. It is obvious that all questions will be decided by the Trial Court after Written Statement is filed by defendant in accordance with law. Accordingly, Writ Petition is dismissed.

(V. M. KANADE, J.)